

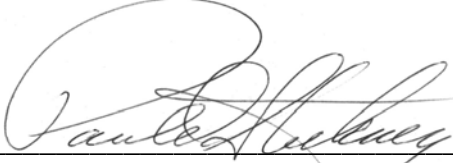
**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

SCOTT HAMILTON,)	
Plaintiff,)	
)	No. 3:07-MC-0038-B
v.)	ECF
)	
LVNV FUNDING, LLC.,)	
Defendant.)	

REPORT AND RECOMMENDATION

This is a miscellaneous action to enforce a subpoena against a non-party, Capital Management Services Group, Inc. ("Capital"). When the action to enforce the subpoena was filed, the underlying action was pending in the United States District Court for the Western District of Texas, Austin Division, and was styled *Scott Hamilton v. LVNV Funding, LLC*, No. 1:06-CV-684-LY. On April 24, 2007, our sister court dismissed the underlying action with prejudice because "all matters in dispute between the parties [had] been fully and finally compromised and settled." (Order in No. 1:06-CV-684-LY, filed 4/24/07, Doc. # 55.) Accordingly, this Court recommends that the Motion to Compel Production from the non-party be denied as moot and that this miscellaneous action be administratively closed.

It is so RECOMMENDED, May 15, 2007.



PAUL D. STICKNEY
UNITED STATES MAGISTRATE JUDGE

**INSTRUCTIONS FOR SERVICE AND
NOTICE OF RIGHT TO APPEAL/OBJECT**

The United States District Clerk shall serve a true copy of these findings, conclusions and recommendation on the parties. Pursuant to Title 28, United States Code, Section 636(b)(1), any party who desires to object to these findings, conclusions and recommendation must serve and file written objections within ten days after being served with a copy. A party filing objections must specifically identify those findings, conclusions or recommendation to which objections are being made. The District Court need not consider frivolous, conclusory or general objections. A party's failure to file such written objections to these proposed findings, conclusions and recommendation shall bar that party from a *de novo* determination by the District Court. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). Additionally, any failure to file written objections to the proposed findings, conclusions and recommendation within ten days after being served with a copy shall bar the aggrieved party from appealing the factual findings and legal conclusions of the Magistrate Judge that are accepted by the District Court, except upon grounds of plain error. *See Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996) (en banc).